

Panaji, 22nd July, 2021 (Asadha 31, 1943)

SERIES II No. 17

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

GOVERNMENT OF GOA

Department of Animal Husbandry &
Veterinary Services

Order

No. 2/13/95-AH (Part)/2021-22/1740

On the recommendations of the Goa Public Service Commission, as conveyed under letter No. COM/II/11/3(2)/2014/116 dated 19-06-2019, Government is pleased to promote the following Officers to the post of Assistant Director, Group "A" Gazetted on "Officiating Basis" in the Directorate of Animal Husbandry & Veterinary Services, Panaji, in Level 10 of the Pay Matrix plus other admissible allowances with immediate effect.

Sr. No.	Name of the officer	Place of posting
1.	Dr. Narendra R. Naik	Veterinary Hospital, Honda, Sattari.
2.	Dr. Atanazia Terezinha Fernandes	Government Livestock Farm, Dhat and Fodder Seed Production Farm, Kalay.
3.	Dr. Tushar A. Gaunekar	Stockman Training Centre, Curti-Ponda.
4.	Dr. Anuradha Anant Naik	Veterinary Dispensary, Mandrem.

The above officers shall hold the post of Assistant Director in the Directorate of Animal Husbandry & Veterinary Services on "Officiating Basis".

The above officers holding post of Assistant Director on Officiating basis shall not hold any right against the post of Assistant Director and the

service rendered as Assistant Director on officiating basis will not be counted for further promotion.

The Budget Head of Account from which they shall draw their pay and allowances shall be issued by the Director, Directorate of Animal Husbandry & Veterinary Services, separately.

By order and in the name of the Governor of Goa.

Dr. *Agostinho Misquita*, Director & ex officio Joint Secretary (AH).

Panaji, 09th July, 2021.



Department of Co-operation

Office of the Registrar of Co-operative Societies

Order

No. 20/3/(25)/Elec/BOD/AMCH/CZ/RCS/20/895

Read: Letter No. 1/474/Elec/AMCH/ARCS/CZ/20/1392 dated 20-11-2020 received from the Asstt. Registrar of Co-op. Societies, Central Zone, Panaji-Goa to grant exemption of Section 60(3)(b) in terms of Section 126A of the Goa Co-operative Societies Act, 2001 to Altess Manor Co-operative Housing Society Ltd., Caranzalem, Taleigao-Goa.

In pursuance of the powers vested under Section 126A of the Goa Co-operative Societies Act, 2001, the Government of Goa hereby exempts Altess Manor Co-operative Housing Society Ltd., Caranzalem, Taleigao-Goa from the provisions of Section 60(3)(b) of the Goa Co-operative Societies Act, 2001 so as to enable Altess Manor Co-operative Housing Society Ltd., Caranzalem, Taleigao-Goa to constitute its full fledged Board of Directors.

The exemption so granted shall be valid for a period of one month or until the seven vacant posts of the Board of Directors are duly filled in whichever is earlier.

By order and in the name of the Governor of Goa.

Arvind B. Khutkar, Registrar & ex officio Joint Secretary (Co-op. Societies).

Panaji, 08th July, 2021.

Department of Education, Art & Culture

Directorate of Higher Education

Notification

No. ADMN/APPT./CHAIRMAN/GEDC/36/2018/2057

Read: 1. Notification No. 2/23/Accts./DHE/09-10/PF-I/53 dated 06-04-2017.

2. Order No. ADMN/APPT./CHAIRMAN/GEDC/36/2018/5856 dated 27-02-2019.

3. Notification No. ADMN/APPT./CHAIRMAN/GEDC/36/2018/207 dated 22-04-2020.

4. Notification No. ADMN/APPT./CHAIRMAN/GEDC/36/2018/4107 dated 23-10-2020.

In exercise of the powers conferred under sub-section (1) of Section 4 of the Goa Education Development Corporation Act, 2003 (Act No. 22 of 2003), and in supersession of orders read in preamble, the Government of Goa is pleased to re-constitute the Goa Education Development Corporation with immediate effect as below:-

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|--|-------------------------|
| 1. Shri Shripad @ Kanta K. Patnekar, r/o Housing Board, Bicholim | — Chairman. |
| 2. Secretary (Higher Education), Government of Goa | — Director. |
| 3. Director (Higher Education), Government of Goa | — Director. |
| 4. Mr. Gorakh Mandrekar | — Director. |
| 5. Shri Narsiha Bhattgaonkar | — Director. |
| 6. Managing Director, GEDC | — Ex officio Secretary. |

By order and in the name of the Governor of Goa.

Tushar T. Halarnakar, Under Secretary (Higher Education).

Porvorim, 14th July, 2021.

Department of Finance

Directorate of Accounts

Addendum

No. DA/Admn/45-2/2021-22/TR-514/87

Read: Office order No. 1289 bearing No. DA/Admn/45-2/19-20/256/TR-2735 dated 10-02-2020.

In view of the recommendation of the Review Departmental Promotion Committee meeting held on 13-05-2021 to review the DPC meetings held on 07-02-2020 as conveyed by Goa Public Service Commission vide letter No. COM/II/11/1(1)/2019/175 dated 18-05-2021, the following Para is inserted above the last para in the above read order:-

"The newly promoted officers to the post of Dy. Director of Accounts/Accounts Officer shall be on probation for a period of two years from the date of joining the post of Dy. Director of Accounts/Accounts Officer".

The other contents of the order remain unchanged.

By order and in the name of the Governor of Goa.

Dilip K. Humraskar, Director & ex officio Joint Secretary (Accounts).

Panaji, 02nd July, 2021.

Department of Forest

Memorandum

No. 4-4-2012/Seniority-FOR/308

Read: O.M. No. 4/4/2012/Seniority-FOR/305 dated 08-06-2021.

The Seniority of Assistant Conservator of Forests (Group 'B' Gazetted) in the Forest Department was finalised vide Memorandum No. 4/4/2012/Seniority/FOR/494 dated 02-08-2018. A tentative Seniority list of Assistant Conservator of Forests in the Forest Department from Serial No. 13 onwards was circulated and objection, if any, pertaining to the seniority assigned to them were invited vide this Department's Memorandum of even number dated 08-06-2021.

As no objections have been received from the Assistant Conservator of Forests in the Forest Department, the Final seniority in the grade of Assistant Conservator of Forests (Group 'B' Gazetted) in the Forest Department is hereby finalised as below:-

Sr. No.	Name of the Officer	Date of birth	Date of appointment	Promote/ /Direct recruit	Remarks
1	2	3	4	5	6
1.	Shri Anand S. Jadhav	11-05-1974	03-05-2012	D	
2.	Shri Aniket P. Gaonkar	23-05-1988	03-05-2012	D	
3.	Shri Nandakumar E. Parab	09-11-1975	03-05-2012	D	
4.	Shri Vishal V. Surve	11-01-1981	03-05-2012	D	
5.	Shri Amar A. Heblekar	18-08-1968	28-03-2016	P	
6.	Shri Shrikrishna R. Prabhu	20-09-1962	29-03-2016	P	
7.	Shri A.G. Samant	28-10-1961	29-03-2016	P	
8.	Shri Deepak Pednekar	06-04-1970	06-04-2016	P	
9.	Shri Damodar Prakash Salelkar	01-10-1982	21-11-2017	D	
10.	Kum. Cliffa D'Costa	18-04-1970	06-06-2019	P	
11.	Shri Vishwas K. Chodankar	04-09-1968	06-06-2019	P	
12.	Shri Jose Colaco (ST)	05-10-1966	06-06-2019	P	
13.	Shri Paresh C. Porab	15-04-1974	31-08-2020	p	
14.	Shri Dyaneshwar M. Kudalkar (SC)	08-03-1967	15-12-2020	P	
15.	Shri Minguel A. Fernandes (ST)	16-05-1973	15-12-2020	P	

By order and in the name of the Governor of Goa.

Isha M. Sawant, Under Secretary (Forest).

Porvorim, 21st June, 2021.

Order

No. 4-2-2011/FOR/318

The Government of Goa is pleased to order posting and transfer of Assistant Conservator of Forests, with immediate effect and until further orders in public interest as shown below:-

Sr. No.	Name of the Officers & Designation	Present place of posting	Transferred & posted as/ /charge
1	2	3	4
1.	Shri Amar Heblekar, Assistant Conservator of Forest	Principal, Forest Research and Training Institute, Valpoi-Goa	Asst. Conservator of Forests, Legal Cell, Forests Department, Altinho, Panaji-Goa.
2.	Shri Vishwas Chodankar, Assistant Conservator of Forest	Assistant Conservator of Forest, Legal Cell, Forest Department Altinho, Panaji-Goa	Principal, Forest Research and Training Institute, Valpoi-Goa.

The above Officers shall draw their salary on their respective Budget Head.

By order and in the name of the Governor of Goa.

Isha M. Sawant, Under Secretary (Forest).

Porvorim, 12th July, 2021.

Department of Home

Home-General Division

Notification

No. HD(G)/45-59/575/66-Vol-III/2555

The Government of Goa is pleased to re-constitute the Rajya Sainik Board, Goa with the following composition:-

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|--|----------------------------|
| 1. Hon'ble Chief Minister | — President/
/Chairman. |
| 2. GOC-in-C, Southern Command, Pune | — Vice-President. |
| 3. FOC-in-C, Western Naval Command, Mumbai | — Vice-President. |
| 4. AOC-in-C, South Western Air Command Ahmedabad | — Vice-President. |
| 5. Minister for Home | — Member. |
| 6. Shri Pravin Zantye, MLA, Mayem | — Member. |
| 7. Chief Secretary | — Vice-President. |
| 8. Flag Officer Commanding, Goa area | — Member. |
| 9. Station Commander, Panaji, Goa | — Member. |
| 10. Director, Resettlement, Zone (South) | — Member. |
| 11. Director, General of Police | — Member. |
| 12. Principal Secretary/Secretary (Home) | — Member. |
| 13. Secretary (Finance) | — Member. |
| 14. Secretary (Education) | — Member. |
| 15. Secretary (Information & Publicity) | — Member. |
| 16. Collector, North Goa, Panaji | — Member. |
| 17. Collector, South Goa, Margao | — Member. |
| 18. Additional Secretary (Personnel) | — Member. |
| 19. Additional Secretary (Home) | — Member. |
| 20. Director of Sports & Youth Affairs | — Member. |
| 21. Director, Social Welfare | — Member. |
| 22. Brig N H Branganza (Retd.) | — Non-official Member. |
| 23. Capt (IN) Tushar M. Valunjkar (Retd.) | — Non-official Member. |
| 24. Air Vice Mshl Giles Gomez VSM (Retd.) | — Non-official Member. |
| 25. Ex-PO Anil Bondre | — Non-official Member. |
| 26. President, All Goa Ex-Servicemen Welfare Association | — Non-official Member. |
| 27. President, Air Force Association, Goa | — Non-official Member. |

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|--|------------------------|
| 28. President, Goa Foundation | — Non-official Member. |
| 29. Dir. General Resettlement, Ministry of Defence, New Delhi | — Special Invitee. |
| 30. Secretary, Kendriya Sainik Board, New Delhi | — Special Invitee. |
| 31. Secretary of Department of Ex-Servicemen Welfare, Ministry of Defence, New Delhi | — Vice-President. |
| 32. Secretary, Rajya Sainik Board | — Member Secretary. |

The function of the Board are specified below:-

- i) Co-ordinating and administering the work of Department of Sainik Welfare.
- ii) Promoting measures relating to the welfare of Ex-Servicemen and the families of serving and deceased personnel.
- iii) Disseminating information to the General Public regarding the Armed Forces in the Country and taking measures to encourage the general public to take active interest in the Armed Forces.
- iv) Any other task the State Government may assign from time to time.

The re-constituted Board shall hold office for a period of 2 years, it shall meet every year.

The Non-Official Members will be entitled to travelling allowances as per the rules.

This supercedes this Departments earlier Notification No. HD(G)45-59/575/66-Vol-III/1853 dated 01-07-2019.

By order and in the name of the Governor of Goa.

Eshant V. Sawant, Under Secretary (Home-II).

Porvorim, 12th July, 2021.

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Department of Labour

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Order

No. 24/3/87-Lab-Part-I (Vol-I)/ESI/309

Government is pleased to order the transfer and posting of the following Insurance Medical Officers in E.S.I. Scheme, under Office of Commissioner Labour & Employment, in public interest, with immediate effect as under:

Sr. No.	Name of the Insurance Medical Officer/ /Doctor	Present place of posting	Place of posting on transfer
1.	Dr. Pavitra Deshprabhu	ESI Dispensary, Mapusa	ESI Hospital, Margao.
2.	Dr. Reshma Hiremath	ESI Dispensary, Mapusa	ESI Hospital, Margao.

This order shall come into force with immediate effect.

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 06th July, 2021.

Notification

No. 28/2/2021-LAB/282

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 18-05-2021 in Ref. No. IT/35/10 is hereby published as required under Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Amalia O. F. Pinto, Under Secretary (Labour).

Porvorim, 18th June, 2021.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT

GOVERNMENT OF GOA
AT PANAJI

(Before Mr. Vincent D'Silva, Hon'ble Presiding
Officer)

Ref. No. IT/35/10

Mrs. Radhika Sawant &

2 Others,

Rep. by Gomantak Mazdoor

Sangh, Tisk, Ponda,

Goa-403115

... Workmen/Party I

V/s

M/s. Godrej and Boyce

Manufacturing Co. Ltd.,

(Cartini India Limited),

D-2, 38/39,

Tivim Industrial Estate,

Karaswada,

Mapusa-Goa 403404.

... Employer/Party II

Workmen/Party I represented by Adv. Shri S. P. Gaonkar.

Employer/Party II represented by Adv. Shri Valmiki Menezes.

AWARD

(Delivered on this the 18th day of the month
of May of the year 2021)

By order dated 19-11-2010, bearing No. 28/41/2010-LAB, the Government of Goa in exercise of powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short The Act), referred the dispute for adjudication to the Industrial Tribunal, Goa as under:

(1) *Whether the action of the Management of M/s Cartini India Limited, Thivim Industrial Estate, Karaswada, Mapusa, Goa in dismissing its workpersons Mrs. Radhika Sawant, Ms. Nutan Vaigankar and Mrs. Mahananda Halankar, with effect from 08-02-2010 from 08-02-2010, is legal and justified?*

(2) *If not, what relief the workpersons are entitled to?"*

2. Upon receipt of the reference, it was registered as IT/35/10 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a claim statement at Exhibit 5 and Party II filed a written statement at Exhibit 6.

3. In short, the case of the Party I is that the workmen were regular employees of Party II and had put in a considerable and unblemished service over the years. There are more than fifty permanent workmen and 20-25 temporary workmen working in the establishment. The Party I workmen although were working since last 10-15 years, were not paid even minimum wages and hence the workers had raised a charter of demands for revision of their earned wages and improvement in other service conditions. Mrs. Mahananda Halankar is the office bearer of the local committee of Gomantak Mazdoor Sangh and is representing the said workers of the Party II. The management of the Party-II was adamant hence, the workers through their union raised a dispute before the office of the Labour Commissioner and on receipt of the said communication, the Director, Mr. James Kurian got furious and annoyed and started harassing the workers at the factory and hence Union had lodged a complaint against the said management before the appropriate Authority.

4. Due to the above complaint, the Management was against the Union and started harassing the active workers of the union and also started fabricating false cases against them for the purpose of victimization, with the help of temporary workers. The three workmen in this reference were active in furthering better conditions for workers through the Gomantak Mazdoor Sangh which irked the Party-II to a great extent. The ill-will against the Party I workpersons had increased to such an extent that the Party II had framed false cases against them, in order to fuel their decision to dismiss them. Most of the workers were females and they were forced to work standing continuously for eight hours. The personal minor arguments between the female workers outside the factory premises on the National High way, was fabricated and converted as misconduct by forcing the temporary workman to lodge false and fabricated case against the local committee and active members of the Union and a false complaint was lodged by the Director, Mr. James Kurian on next day by taking the said girl to the Mapusa Police station by using his personnel influence and based on the false and fabricated case, charge sheet dated 25-08-2008 was issued to the above three workmen, which stated that they were being charged under the misconducts as per the Model Standing Orders of the Industrial Employment (Standing Orders) Act, 1946.

5. The Charge sheets were issued by Mr. James Kurian, the Director of the Party-II on the basis of a complaint obtained by him from one temporary workman, Ms. Sarita Naik and as per the Party-II it was alleged that the three workmen/Party-I assaulted Ms. Sarita Naik, who was a temporary workmen near the factory gate. It was also mentioned that the Party I used abusive and filthy language and threatened Ms. Sarita Naik and that after the verbal threat the Party 1 collectively manhandled Ms. Sarita Naik, brutally beat her up, and then threw itching powder on her; and even tried to strip off her clothes and when called by the Director, Mr. James Kurian the Party I refused to accept their suspension letters; summoned all other workmen in the cabin; started shouting slogans and using abusive language, gheraoed all officers in the cabin; and restrained officers from leaving the premises. The workpersons then replied to the charge sheet vide their individual letters dated 08-09-2008 vehemently denying each and every charge. The Party II then proceeded with the enquiry of the Party 1/Workpersons. The Party I also had satisfactorily showed through evidence that the charges levied against them were

unjustified and false. The Inquiry Officer gave his findings whereby it was held that the three workmen/Party-I were guilty of the misconducts alleged against them and the charges against them were proved. Based on the findings of the Enquiry officer, the Party II informed the three workmen that they have decided to impose a punishment and asked them to submit their reply to the same.

6. The Party I explained that the inquiry was proceeded without considering relevant evidence and the findings were biased. The Party II issued the Order of Dismissal of the Party I. The Party I then through its Union, Gomantak Mazdoor Sangh raised a dispute before the Asst. Labour Commissioner asking him to intervene in the said matter of illegal dismissal. The matter was admitted in conciliation which ended in a failure on 18-06-2010 before the Asst. Labour Commissioner, Mapusa, who then made a failure report to the Government of Goa. The Appropriate Government then referred the dispute to the Hon'ble Tribunal. The order of dismissal dated 08-02-2010 is illegal, unjustified, and violative of principles of natural justice and suffers from errors apparent on the face of the record. The Disciplinary Authority failed to consider long past service put in by the Party I. The whole inquiry is vitiated as Mr. James Kurian, the Director of the Party-II who was the Deciding Authority and had issued the Order of Dismissal, has also deposed as a witness in the inquiry. The Management has acted in a biased manner with a malafide intention of dismissing the Party I on account of their affiliation to the Union, Gomantak Mazdoor Sangh. The Party I/workpersons are therefore entitled for the reliefs claimed. Hence, the dispute.

7. In the written statement, the Party II has claimed that the price of brass which is the main raw material for manufacture of product has shot up exponentially, consequently requiring the Party II to procure this raw material at an extremely high price and the profit margins on the same are extremely thin and that the Party II is required to maintain proper security of the brass stored in the factory premises at Karaswada as brass is a high value raw material. The plot wherein the factory is situated, there exists two entrances/gates along the western boundary of the plot and towards the South Eastern Corner of the plot, there exists the Main Gate to the Factory Premises, next to which lies the Office Building. The value of the machinery presently installed at or around the factory premises within the said plot and building, raw material and finished goods, stock etc. is approximately valued One Crore Twenty Lacs Only,

which, if damaged during a riot or by any striking or indisciplined workers, would be the loss caused to Party II. The workmen concerned in the present dispute had been in employment with the Party II having joined its service between about July, 1997 and 1999. The Party II had engaged the services of over 20 temporary and contract workers for the purpose. It was informed that the permanent employees working in the said factory had joined the Union. The Party II received a notice from the Asst. Labour Commissioner, Panaji requesting the Party II to participate in discussions on the said demands of the Party I on behalf of the permanent workforce of the Party II.

8. The Party II through its Manager/Director appeared before the Asst. Labour Commissioner on various dates, the last of which was held on 12-8-2008 when the conciliation proceedings ended in a failure as the Party I refused to budge from its unreasonable demands. In the meantime on 26-7-2008, the Management was informed by one of its temporary workers named Ms. Sarita Arjun Naik that she had been assaulted just outside the factory main gate by the workers concerned in the present dispute, soon after close of work at about 5.15 p.m. The said three workmen were directly interfering with the temporary worker of the factory, and threatening the said workman with dire consequences, if she reported for work, and further, since the threats by the workmen were issued in order to disrupt normal work at the factory through any temporary or contract workers, the Party I decided to suspend the said three workmen, pending an inquiry into the incident and when they attempted to serve the Order of Suspension from service on the said three workers at the Factory Premises, the said workers refused to sign in acknowledgement of receipt of the suspension orders, nor would they accept the same and thereafter, the said workers began insulting Shri James Kurian, and the above referred staff with filthy language and used abuses and went on to the shop floor of the factory and incited the workers working there by calling upon them to strike work; thereafter, the workmen concerned in the present dispute along with several other workers forced entry into the factory office as well as the cabin of Mr. James Kurian.

9. The group of workers was led by the workmen concerned in the present dispute, who threatened all the staff in the office and the managers with physical assault and informed them that they would not allow to leave the factory premises. Police was called fearing that the machinery, equipment and factory premises would be

vulnerable to damage. However, the workmen, along with more than 20 other workers refused to leave the factory and blocked the exit of the staff, management and some willing workers, through the main gate. On 21-8-2008, the permanent workers who are members of the Party I assembled at the main factory gate at about 8.00 a.m. before their shift commenced and they blocked ingress and egress through the said main gate, as a result of which, it became impossible to commence its operation in the factory. The workers were using abusive language and physically obstructing people moving freely into or out from of the said factory gate. They were also shouting slogan. Similarly, no vehicular traffic including trucks with supplies of raw material or any other vehicles were allowed into or out of the factory thereby completely paralyzing the factory causing the Party II huge monetary loses. The workers continued picketing at the factory gate blocking entry or exit through the said gate and also threatened employees of the Party II as also contract employees. The entire incident of the blockage of the factory gate was filmed by Shri Atmaram Toraskar, Diploma Engineer Trainee, which was then transferred to a compact disc. The Party II filed a Civil Suit before the Civil Judge Senior Division, Mapusa bearing No. RCS 139/08/A, praying for an order of injunction to restrain the striking workers from interfering with the entry and egress of staff and goods to the factory. After the workmen refused to accept the order of suspension on 20-8-2008, Party II served said order to the concerned workmen through registered post, which was received by the said workmen.

10. Party II thereafter served a charge sheet dated 25-8-2008 on each of the above referred workmen. They were called upon to submit their explanation to the charges levelled against them and submitted their replies dated 8-9-2008 attempting to explain their acts of misconduct by merely denying the incidents. The Enquiry Officer was appointed. The workmen had fully participated in the inquiry and the Enquiry Officer concluded that all three charges levelled against the workmen have been proved and held them guilty of the same. The management considered and accepted the findings and concurred with the same, and had decided to impose a punishment for the misconducts committed by the workmen, thereupon, calling upon them to show cause as to why punishment should not be imposed upon them for the said misconducts and after considering the contents of the said replies of the workmen to the show cause notice, and after considering the

Enquiry Report/Findings of the Enquiry Officer, and the past records of the workmen, the management decided to terminate the services of the above referred three workmen vide Order of Dismissal dated 8-2-2010 for the charges of misconduct. The Party I workpersons are not entitled for any reliefs.

11. In the rejoinder at Exh. 7, the Party I has denied the case set up by the Party II in the written statement.

12. Issues which came to be framed at Exhibit 8 are as follows:

1. Whether the Party I/Union proves that the enquiry was unjust, illegal and in violation of principles of natural justice?
2. Whether the charges leveled against the Party I/Workman are proved to the satisfaction of the Tribunal?
3. Whether the Party I/Union proves that the termination of the Party I workmen is illegal, unjustified and by way of victimization?
4. What Relief? What Order?

13. In the course of evidence, the Party II examined Shri James Kurian as their witness and produced on record copies of three orders of dismissal letter dated 08-02-2010 at Exh. 51 Colly, copies of three replies dated 02-02-2010 of Party I along with postal receipts at Exh. 52 Colly, copies of three letters dated 28-01-2010 of Party II along with certificate of posting to Party I at Exh. 53 Colly, copies of three letters dated 27-01-2010 of Party I along with postal receipts at Exh. 54 Colly, copies of three notice dated 19-01-2010 of Party II along with certificate of posting at Exh. 55 Colly, copy of findings of Enquiry Officer dated 28-12-2009 at Exh. 56, copy of record of enquiry proceedings dated 25-08-2008 at Exh. 57, copy of letter of appointment of the Enquiry Officer dated 09-09-2008 at Exh. 58, copy of letter of appointment of the Management Representative dated 15-10-2008 at Exh. 59, copies of three notice of enquiry dated 18-09-2008 to the Party I at Exh. 60 Colly, copies of three explanation to charge-sheet dated 08-09-2008 of Party I at Exh. 61 Colly, copies of three charge-sheets dated 25-08-2008 to Party I at Exh. 62 Colly, copy of letter dated 28-08-2008 to Police Inspector at Exh. 63, copy of letter dated 21-08-2008 to Police Inspector at Exh. 64, copy of letter dated 20-08-2008 to Police Inspector at Exh. 65, copy of letter dated 17-07-2008 to Police Inspector at Exh. 66, copies of three letters dated 21-08-2008 to Party I at Exh. 67 Colly, copies of three suspension orders dated 20-08-2008 at Exh. 68 Colly, copy of complaint dated 19-08-2008

of Sarita Naik at Exh. 69, copies of two N.C. complaints dated 18-08-2008 and 26-07-2008 at Exh. 70 Colly, copy of conciliation proceedings dated 18-07-2008 at Exh. 71, copy of notice dated 28-04-2008 for conciliation at Exh. 72, copy of notice dated 23-08-2008 to Police Inspector at Exh. 73, copy of notice dated 22-08-2008 to Police Inspector at Exh. 74, copy of notice dated 21-08-2008 to Police Inspector at Exh. 75, copy of notice dated 20-08-2008 to Police Inspector at Exh. 76, copy of notice dated 17-07-2008 to Police Inspector at Exh. 77, copy of notice dated 01-09-2008 to Police Inspector at Exh. 78, copy of notice dated 30-08-2008 to Police Inspector at Exh. 79, copy of notice dated 29-08-2008 to Police Inspector at Exh. 80, copy of notice dated 28-08-2008 to Police Inspector at Exh. 81, copy of notice dated 27-08-2008 to Police Inspector at Exh. 82, copy of notice dated 26-08-2008 to Police Inspector at Exh. 83, copy of notice dated 25-08-2008 to Police Inspector at Exh. 84, copy of letter dated 27-01-2009 to Mrs. Mahananda along with certificate of posting at Exh. 85 Colly, copies of three letters dated 17-01-2009 of Party I at Exh. 86 Colly, copy of letter dated 20-12-2008 to Mrs. Mahananda at Exh. 87, copy of letter dated 16-12-2008 of Party I at Exh. 88, copy of letter dated 05-12-2008 by Party II to the Enquiry Officer at Exh. 89, copy of letter dated 24-11-2008 of Party I to Party II at Exh. 90, copies of three daily output sheets of July and August, 2008 of Ms. Sarita Naik at Exh. 91 Colly, copy of letter dated Nil of Party I to Party II along with certificate of posting and postal receipt at Exh. 92 Colly, copy of daily output sheets of July and August, 2008 of Party I at Exh. 93 Colly, copy of Minutes of conciliation proceedings dated 18-07-2008 between the Union (GMS) and Party II at Exh. 94, a copy of Memorandum of Settlement dated 14-11-2009 at Exh. 95, copy of Award dated 14-11-2009 in Lok Adalat along with Memorandum dated 14-11-2009 at Exh. 96 Colly, copy of plaint in RCS No. 139/2008 between Party II and the Union and Ors. at Exh. 97, copy of proceeding sheets of SDO, Mapusa along with annexures at Exh. 98 Colly, copy of Muster Roll for August, September and October, 2008 at Exh. 99 Colly, copy of Power of Attorney dated 04-09-2008 at Exh. 102, a copy of Special Power of Attorney dated 07-10-2016 at Exh. 103, a copy of Board Resolution dated 21-01-2021 at Exh. 104. Party II also examined its witness Shri Gajendra Parab and produced on record a CD along with certificate u/s 65-B of the Indian Evidence Act at Exh. 109 Colly. Party also examined its witness, Ms. Patsy Rita Correia and Shri Atmaram Toraskar as its witness and produced on record copy of

certificate u/s 65-B of Indian Evidence Act at Exh. 114, and also examined Shri Anand Karapurkar and Sarita Naik. On the other hand, no witnesses were examined by the Party I workmen, who claimed that they are relying on the evidence already led by them at the time of preliminary issues. The Party I had examined Mrs. Radhika Sawant as their witness and produced on record a copy of joining letter dated 28-05-2006 at Exh. 11, a copy of letter dated 05-06-2006 of formation of Union at Exh. 12, a copy of letter dated 05-06-2006 informing newly elected committee members at Exh. 13, a copy of dated 04-03-2010 at Exh. 14, a copy letter dated 19-05-2010 at Exh. 15, a copy of minutes of conciliation proceedings dated 18-06-2010 at Exh. 16, a copy of failure report dated 13-08-2010 at Exh. 17, a copy of three charge-sheets dated 25-08-2008 at Exh. 18, Exh. 19 and Exh. 20, a copy of explanation to the charge-sheet dated 08-09-2008 at Exh. 21 and Exh. 22, copy of findings dated 19-01-2010 (3 in Nos.) at Exh. 23 Colly, a copy of explanations dated 02-02-2010 to the show cause notice dated 19-01-2010 at Exh. 24, Exh. 25 and Exh. 26, a copy of Orders of Dismissal dated 08-02-2010 at Exh. 27 and 28, copy of three explanation letters dated 16-02-2010 at Exh. 29, Exh. 30 and Exh. 31.

14. Heard arguments through video conferencing. Notes of written arguments came to be placed on record by the Party I as well as Party II.

15. My answers to the above issues are as follows:

Issue No. 1	...	In the Affirmative (Already answered).
Issue No. 2	...	In the Affirmative.
Issue No. 3	...	In the Negative.
Issue No. 4	...	As per final order.

REASONS

Issue No. 1:

16. It is a matter of record that my Learned Predecessor had answered the above issue on 18-1-2013 in the affirmative as it was held that the domestic enquiry held against the workmen is unjust, illegal and in violation of principles of natural justice and as such the enquiry was set aside. The Party II preferred a Writ Petition before the Hon'ble High Court of Bombay at Goa, which was pleased to dismiss the Petition on 27-4-2020 with a direction to the Tribunal to endeavour to decide the reference, as expeditiously as possible, preferably within a period of one year, from the

expiry of the eight weeks, if the normal Court/Tribunal working is restored. Needless to mention, the Party II was afforded an opportunity to lead evidence before the Tribunal to establish the charges as levelled and to lead such evidence, if so advised and accordingly, the Party II led evidence as stated above.

Issue No. 2:

17. Learned Advocate Shri S. P. Gaonkar for the Party I has submitted that following charges have been framed against the Party I workman as per exhibit 62 Colly namely (1) Assault and abuse of Sarita Naik on 18-8-2008 near the factory gate (2) Refusal to accept suspension order given by James Kurian (3) Slogan shouting, using abusive language and gheraoing all the officers in his cabin and (4) Several other officers were prevented from leaving the factory premises by blocking the gate. He submitted that none of these charges are made out on the basis of evidence led before the Tribunal. The charges made against Party I workpersons on the basis of alleged incident are false as Sarita Naik was not present in the factory on 18-8-2008 and further the charges are not maintainable as incident occurred outside the factory premises on the national highway which was purely of a personal nature not connected with the affairs of the company and the same should have been investigated by the police and not by the employer. The misconducts enumerated in the Model Standing Orders cannot be given any liberal interpretation since the standing orders are penal in nature which deserves strict interpretation. Besides, Sarita Naik has admitted that when in the factory she would sign in the column of employee's signature on the Daily output sheet, however on the day of incident the signature of Sarita Naik is missing and therefore the credibility of the complaint itself from which the charge sheet originated is questionable. The Party II has not established that act of Party I workpersons had directly interfered with the production and functioning of the factory as Daily output sheets of all the workmen had not been produced.

18. Learned Adv. Shri S. P. Gaonkar has further submitted that the incident of 20-8-2008 as alleged in the charge sheet has also not been made out as all the witnesses examined were directly reporting to Mr. James Kurian and therefore there is a likelihood that the statements of said persons have been controlled and influenced by said James Kurian. The Party II had also not examined any security guard posted at the plant to prove the incident. He also submitted that the incident of

21-8-2008 regarding the workmen alleged involvement in picketing at the factory gate and threatening one Dilip D. Narvekar cannot be relied upon as a ground for dismissal as there is no mention of the alleged incident in the charge sheet at Exh. 62 colly. He further submitted that in the case of the **Workmen of India Cements Limited v/s Labour Court, Coimbatore, 1988 SCC Online Mad 245** it was held that in a case of domestic enquiry, the parties are confined to charges framed and the Court or the Enquiry officer as the case may be, cannot travel outside the charges, admit evidence or give any findings in respect of any matter extraneous to the charge and therefore the alleged misconducts under Model Standing Orders are not made out and any action taken against the Party I workmen on the basis of the charge sheet is illegal. He also stated relying upon the case of **Neeta Kaplish v/s Presiding Officer, Labour Court, (1999) 1 SCC 517** that the Party II has not led any fresh evidence on merits and if Management has not led fresh evidence on merits, the management has to suffer the consequences.

19. Per contra, Learned Adv. Shri Valmiki Menezes for the Party II has submitted that there is no evidence led by the Party 1 workpersons refuting the allegations in the charge sheet or the evidence now led by six eyewitnesses to the two incidents that the workpersons are charged of and therefore the entire matter will have to be viewed in the complete absence of evidence by the three workers on the specific allegation in the charge sheet and refuting the evidence of eye witnesses accounts nor on the question of victimization raised by the workers in the written statement. He further submitted that in the case of **Workman v/s Motipur Sugar Factory Private Limited, AIR 1965 SC 1803**, the Hon'ble Apex Court has held that the entire matter would be open before the Tribunal, if the domestic enquiry has been set aside and the employer would have to justify on facts as well as that its order of dismissal or discharge was proper. He further submitted that in the case of **Workmen of F. T and R Company v/s Management of Firestone Tyre and Rubber Company Limited, AIR 1973 SC 1227**, the Hon'ble Apex Court has held that powers of Tribunal under Section 11-A of the Act permit the employer to adduce evidence to justify its action for the first time before the Tribunal and the Tribunal is empowered to consider the evidence and to conclude based upon the same whether the termination of the workman was justified and that provisions of Section 11-A also empower the Tribunal to modify the punishment for misconduct, if it is justified.

20. Admittedly, three charges have been framed vide the charge sheet dated 25-8-2008 at exhibit 62 colly, namely misconduct No. 14(3)(h), riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline, (b) misconduct No. 14(3)(a), wilful insubordination or disobedience whether alone or in combination with others to any lawful and reasonable orders of the superior and (c) Misconduct No. 14(3)(k), striking work or inviting others to strike work in contravention of any law or rule having the force of law. Discernibly, the following charges have been slapped against the workmen, namely (a) Assault and abuse of Sarita Naik on 18-8-2008 near the factory gate, (b) Refusal to accept suspension order given by James Kurian (c) Slogan shouting, using abusive language and gheraoing all the officers in the cabin of James Kurian and (d) Other officers were prevented from leaving the factory premises by blocking the gate.

21. It is therefore apposite to find out whether the Party II have proved the above charges against the workmen as alleged by them as per the evidence adduced before the Court. The first charge as per the charge sheet is (a) Assault and abuse of Sarita Naik on 18-8-2008 near the factory gate.

22. It is the case of the Party II/employer that the Party I/ three workpersons on 18-8-2008 assaulted Sarita Naik near the factory Gate who was the temporary worker, using abusive language threatening her that if she resumes work at the factory of Party II, she would face dire consequences. The Party II examined said Sarita who has deposed that 18-8-2008 after finishing her duty at the factory in the evening and as she came out of the factory Gate, the Party I workpersons gheraoed her and pulled her dupatta and threw it on the road and that they threatened her to withdraw the police complaint of 26-7-2008 and to stop coming for work at the factory and that the Party I/workpersons then started beating her and she fell down on the road and they kicked her and continued beating her while she was lying on the road after which she fainted. The police came to the spot and took her to the hospital, at Mapusa where doctor treated her and issued a hurt certificate and that on the same day, the police took down her complaint regarding the incident. She also claimed that on the next day, James Kurian came to her residence enquired with her about the previous incident with the three workers and she narrated him the incident in detail and also gave him the copy of the complaints dated 26-7-2008

and 18-8-2008 and also gave him a letter dated 19-8-2008 signed by her narrating all the incident and requested him to take action against the said three workpersons. In the cross examination, she stated that she used to assemble the locks and that she left the job in August, 2008 and did not join any company thereafter. When shown Daily output sheets at Exh. 91 colly, she admitted signature in the column employee's signature and admitted that she used to sign Daily output sheet everyday. She also admitted that the above bus stop is always crowded at the time of leaving and that on 18-8-2008 after completing her shift, she went directly to the bus stop. She has not been shaken in the cross examination regarding the incidents. She has deposed in detail about the incident of 18-8-2008 occurred just outside the factory gate. She also narrated about the previous incident on 25-7-2008 within the factory premises, after which on 18-8-2008 she was abused and threatened near the factory gate and told her not to report for duty.

23. Exh. 70 Colly (2) is the N. C. complaint lodged by Sarita Naik before Mapusa Police Station with respect to the previous incident on 25-7-2008 wherein she was abused by Radhika and Nutan. Exh. 70 Colly (1) is the N. C. complaint lodged by her with respect to the second incident on 18-8-2008 reported by her near Karaswada bus stop wherein she was assaulted Exh. 69 is the complaint addressed by her to the Party II disclosing the two incidents and as to how she was abused and assaulted by the Party I/workpersons. The Hurt Certificate produced also shows that she was referred by the police for medical examination immediately after she lodged the complaint regarding the incident, which also corroborates that such an incident occurred. The examination of Sarita Naik clearly indicates that the incident took place at the bus stop outside the factory Gate. She also explained prior incident of 25-7-2008 wherein she stated that at the washroom while washing hands a rose which was kept on the basin fell into the basin and Radhika who was present asked her whether she was blind and she left the factory soon thereafter and at the factory gate, Radhika and Nutan were waiting for her and as soon as she came out of the gate, they pushed her and threatened her saying if she reports for duty on the next day, they would assault her. She lodged the N.C complaint as stated above. She also categorically deposed regarding the incident on 18-8-2008 wherein she stated that when she came out of the factory gate, she was gheraoed by the Party I/workpersons and threatened to withdraw

the police complaint and stop coming for work and also beat her and she fell on the road and they kicked her and continued beating her while she was on the road after which she fainted. There is also a N.C complaint with respect to the incident. The Hurt certificate also corroborates her case. She also stated that she had not come back to work after the incident which also indicates that the assault was with the purpose of threatening the temporary worker to desist from joining duties as to force the management to fulfil their demands.

24. The witness of Party II, namely James Kurian has stated in detail the background facts as to why there were attempts of threats, assault etc., by the above workpersons who were representing the Union. He also deposed that negotiations on the Charter of demands were going on and the above workpersons were attempting to disrupt normal operations during that period by threatening other workers from attending the duties. The other witnesses namely, Gajendra Parab and Atmaram Toraskar have also deposed about the negotiations that were going on about the Charter of demands of the Union and the temporary workers were being threatened as a pressure tactics not to come for attending their regular duties. The above two incidents therefore assumes importance as rightly submitted by Learned Advocate Shri Valmiki Menezes. The incident on the workperson, Sarita is not one of a private dispute as claimed by Learned Advocate Shri S. P. Gaonkar, but one which is directly connected with the workers in the factory, with an aim of creating ruckus and stopping production at the factory as to put a pressure on the management during the negotiations of the Charter of demands raised by the Union. It is well settled in the case of **Usha Breco Mazdoor Sangh v/s Management of Usha Breco Limited and Anr, (2008) 5 SCC 554** that assault, intimidation are penal offences and a workman indulging in commission of a criminal offence should not be spared only because he happens to be an union leader. The Act does not encourage indiscipline as the union leader does not enjoy immunity from being proceeded with in a case of misconduct.

25. Needless to mention, the act complained of by Sarita Naik took place outside the factory gate but with an intention of pressurising the workperson from attending the duties as stated by her in her deposition. The Model Standing Orders nowhere restricts misconduct of assault, abuses or threats against the workman as required to take place within the premises of the establishment or its vicinity. The said act of assault and threats has

direct interference with the normal production and discipline of the establishment. It is well settled in the case of **Glaxo Laboratories (I) Ltd. v/s Presiding Officer (1984) 1 SCC 1** that even where the Standing Orders refer to a misconduct of an act subversive of discipline of good behaviour within the premises or precincts of the establishment, where the act is committed outside the precincts or wherever committed, if it has the effect of subverting discipline or good behaviour within the precincts of the establishment, will amount to a misconduct. It is therefore immaterial as to whether the assault took place inside the establishment or just outside its gate or the bus stand abutting the factory premises as, in fact, the assault was an act which had effect of subverting discipline and good behaviour within the factory premises. The contention of Learned Advocate Shri S. P Gaonkar as stated above therefore pales into insignificance as the evidence clearly points out that Sarita Naik was present at the time of incident and the incident narrated by her occurred. The Party II therefore proved the misconduct No. 14(3)(h), riotous or disorderly behaviour during working hours at the establishment and any act subversive of discipline as it has sufficiently shown assault and abuse on Sarita Naik on 18-8-2008 near the factory gate by the Party I workpersons.

26. The other misconducts are (b) misconduct No. 14(3)(a), wilful insubordination or disobedience whether alone or in combination with others to any lawful and reasonable orders of the superior and (c) Misconduct No. 14(3)(k), striking work or inviting others to strike work in contravention of any law or rule having the force of law, namely, refusal to accept suspension order given by James Kurian (c) Slogan shouting, using abusive language and gheraoing all the officers in the cabin of James Kurian and (d) Other officers were prevented from leaving the factory premises by blocking the gate. The incidents imputed in the Charge (b), (c) and (d) above form part of one transaction between 4.30 pm and approximately 8 pm on 20-8-2008. The first part of the incident was when James Kurian, in the presence of Gajendra Parab, HR Manager and Carol Narvekar, Deputy Manager, Accounts attempted to serve a Suspension Order on the Party I/workers in the Chamber of James Kurian at 4.30 pm.

27. The witness of Party II namely, James Kurian has recounted the said incident on 20-8-2008 in his Affidavit. He has stated that the workers involved in the present dispute refused to sign in acknowledgment of receipt of suspension orders

nor would they accept the same and thereafter the said workpersons began insulting him and their staff with filthy language and that thereafter they thereafter went on to the shop floor of the factory and incited the workers thereby calling them to strike work and thereafter they along with other workers forced entry into the factory office as well in his cabin and threatened the staff with physical assault and informed that they would not allow them to leave the factory premises and on sensing the situation and fearing that the machinery, equipment and factory premises would be vulnerable to damage, he called the police force to the factory, however the above workpersons along with other workers refused to leave the factory and blocked the exit of the staff and other workers.

28. The above statement of James Kurian has specifically corroborated by Gajendra Parab and Patsy Correia. Gajendra Parab has stated that the said workpersons refused to accept the orders of suspension which was being served on them by James Kurian in his office cabin after which the said workers left the cabin, summoned other workers from the shop floor, gheraoed the officers and workers of the company and thereafter restrained him and other officers including James Kurian from leaving the office premises. The above incident has not been denied by the Party I workpersons. Ms. Patsy Correia also narrated the said facts. She stated that when she was in the Accounts office at around 4.30 pm on 20-8-2008, she heard some lady workers shouting abuses from the direction of the chamber of James Kurian and thereafter heard same workers shouting in the corridor outside their office and noticed the three workers were walking outside the office of James Kurian in a threatening manner along with other workers and forced entry into factory office as well as in the cabin of James Kurian.

29. Ms. Patsy, the then Accounts Officer also deposed that the group was led by Party I/ workpersons who threatened her and other staff and informed them that they would not allow them to leave the factory premises. In the cross examination, she maintained that she was in the factory office on the ground floor. She has not been shaken as far as the incident is concerned. Atmaram Toraskar, the Engineering Executive on the Shop Floor also narrated the above incident in detail. He claimed that on 20-8-2008, at 4.30 pm he was at the shop floor, at which time the Party I/ workpersons came to meet other workers on various production lines and after some conversation with them, suddenly, all the workers from the shop floor left together in a large group

led by Party I workpersons and went to the cabin of James Kurian and thereafter did not allow any of the staff to leave factory premises till 6 pm. He admitted that the shop floor and the cabin of James Kurian are on the ground floor and can be seen from the shop floor. He has thus corroborated the incident. Similarly, Anand Karapurkar, then employed as Deputy Manager (Production) has also deposed that he was dealing with production and spend most of the time on the shop floor and on 20-8-2008 at 4.30 pm, the Party I workpersons came to meet other workers at the shop floor and after some conversation with them, all of them suddenly left and went to the cabin of James Kurian and refused to allow James, Carol, and Gajendra to move out of cabin. He admitted that he did not go inside the cabin but stated that he could see them through cabin glass door. Except for denials of the statements of these witnesses, there is no substantial cross examination on the actual incident. The evidence of the above witnesses clearly establishes the above misconducts on the part of Party I/workpersons.

30. The explanation of the Party I workpersons can be found in their reply which is produced at Exhibit 61 colly which is a bare denial. Refusal to accept a legitimate Order from the Management is a misconduct and an act subversive of discipline. The above charge comprises of the incident that took place immediately after the workers left the Chamber of James Kurian and returned to his chamber with a large crowd of workers and thereafter physically restrained the Management, Staff and willing workers from leaving the factory premises until after 7 pm as per the case of Party II as well as the documents including Police Complaints made to that effect along with a suit filed by the Party II to restrain the workers at Exhibit 97, and various other documents to substantiate the incident. It is therefore the Party II has sufficiently proved the commission of the above misconducts by the Party I/three workers, during the second part of the transaction from 4 pm onwards on 20-8-2008. The incident of 21-8-2008 regarding the workmen alleged involvement in picketing at the factory Gate and threatening one Dilip D. Narvekar and reliance on the CD to prove the said charge cannot be relied upon as a ground for dismissal as rightly submitted by Learned Adv. Shri S. P. Gaonkar for the Party I as there is no mention of the alleged incident in the charge sheet at Exh. 62 colly as it well settled in the case of the **Workmen of India Cements Limited**, supra that in a case of domestic enquiry, the parties are confined to charges framed and the

court or the enquiry officer as the case may be, cannot travel outside the charges, admit evidence or give any findings in respect of any matter extraneous to the charge and therefore the alleged misconduct under Model Standing Orders is not made out and any action taken against the Party I workmen on the basis of the charge sheet is illegal.

31. It is well settled in the case of **Jay Engineering Works Ltd. v/s State of West Bengal, AIR 1968 Calcutta 407** that Gherao or a Physical Blockade of the egress and ingress of a factory, with a target to place Managerial Staff in a position as to compel those in control of an industry to submit to the demands of the workers, invariably involves the commission of an offence. The Judgment discusses all aspects of this method adopted by workmen, to coerce the Management and to pressurize it into accepting its demands by means which are other than peaceful ones, like the present case, as rightly submitted by Learned Adv. Shri Valmiki Menezes for Party II. The contention of Learned Adv. Shri S.P. Gaonkar and reliance placed on the case of **Neeta Kaplish**, supra cannot be accepted as in that case, no evidence was led by the management, unlike in the present case, where the management has led fresh evidence before the Tribunal, which has not been rebutted by the Party I workpersons. The Party II has proved by way of oral as well as documentary evidence the misconducts namely (b) misconduct No. 14(3)(a), wilful insubordination or disobedience whether alone or in combination with others to any lawful and reasonable orders of the superior and (c) Misconduct No. 14(3)(k), striking work or inviting others to strike work in contravention of any law or rule having the force of law, namely, refusal to accept suspension order given by James Kurian (c) Slogan shouting, using abusive language and gheraoing all the officers in the cabin of James Kurian and (d) Other officers were prevented from leaving the factory premises by blocking the gate. It is therefore the above issue is answered in the affirmative.

Issue No. 3:

32. Learned Advocate S. P. Gaonkar for Party I has submitted that the act of termination by the Party II is a clear case of victimisation as it was on account of their affiliation to the Union since they were striving for better conditions through the Union, and for this reason, the Employer/Party II has falsely charged them with the misconduct for an alleged act that occurred outside the premises of the Party II which was purely of a personal nature,

unconnected with the affairs of the Company. He further submitted that although Ms. Sarita Naik complained to the Management that on 18-08-2008 around 12 workmen were involved in the alleged assault against her, the Employer Party II maliciously issued suspension orders only against these 3 workmen i.e. Party I to victimise them. The depositions of all witnesses of Party II show that on 20-08-2008 after Mr. James Kurian attempted to give the suspension orders, the Workmen/Party 1 along with 20 other workers refused to leave the factory and blocked the exit of the staff, management and some workers through main gate. However, only Party I workmen were charge sheeted which goes to prove the intention of victimization of the Workmen/Party I by the Employer/Party II.

33. Learned Advocate Shri S.P. Gaonkar has further submitted that the very fact that Mr. James Kurian deposed against Party I and that he himself decided to dismiss them from their services clearly establishes malafide intentions of the Employer/Party-II in fabricating the misconducts against the Workmen/Party I and terminating their services which clearly shows a case of bias and personal vendetta against the Workmen. He relied upon the case of **Mohd. Yunus Khan v. State of UP & Ors (2010) 10 SCC 539** and submitted that if a person appears as a witness in disciplinary proceedings, he cannot be an inquiry officer nor can he pass the order of punishment as a disciplinary authority. No person can be a Judge in his own cause and no witness can certify that his own testimony is true. Anyone who has personal interest in the disciplinary proceedings must keep himself away from such proceedings. The violation of the principles of natural justice renders the order null and void. He further submitted that while passing this illegal dismissal order, the unblemished past record and performance of the Party I/Workmen had been ignored and this also makes the dismissal order illegal and void. It is thus clear that the orders of termination of the Party I/Workmen are illegal, unjustified and by way of victimization.

34. Per Contra, Learned Advocate Shri Valmiki Menezes has submitted and rightly so that the plea of victimization is required to be substantiated by evidence to be led by the workers and victimization being the antithesis of proved misconduct, requires evidence and facts to be pleaded and proved. The workers having not led any evidence in this regard, there is no past incident or any specific act of victimization pleaded or proved on the record. It is also well settled in a case of **Messrs Bharat Iron Works v/s Bhagubhai**

Balubhai Patel and Ors, (1976) SCC 518 that the onus of establishing a plea of victimisation will be upon person pleading it and since a charge of victimisation is a serious matter, they have to be established by safe and sure evidence. Mere allegations, vague suggestions and insinuations are not enough. All particulars of the charge brought out, if believed, must be weighed by the Tribunal and a conclusion should be reached on a totality of evidence produced. It is also well settled that once a gross misconduct is established as required, on legal evidence either in a fairly conducted domestic enquiry or before the Tribunal on merits, the plea of victimisation will not carry the case of the employee any further. Also, in the case of **Ajit Kumar Nag v/s Indian Oil Corporation Ltd., (2005) 7 SCC 764**, the Hon'ble Apex Court has held that the burden of proving malafide is on the person making the allegations and the burden is very heavy. There is every presumption in favour of the administration that the power has been exercised bonafide and in good faith as it is to be remembered that the allegations of malafide are often made easily than made out and the very seriousness of such allegations demands proof of a high degree of credibility.

35. Needless to mention, the Party II has proved the misconducts as alleged against the Party I/workmen. It is proved that they had abused and assaulted the temporary workperson, namely Sarita Naik on 18-8-2008 near the factory gate and on 20-8-2008, when James Kurian attempted to serve the suspension orders on the Party I/workpersons in the presence of other officials, they refused to accept the legitimate orders and thereafter left and returned with a large crowd of workers and physically restrained the management, staff and other workers from leaving the factory premises. There is no cross examination on the incident narrated by the said witnesses. None of the witnesses of Party I workmen who have been examined during preliminary enquiry have stated about the alleged bias or personal grudge. There are also no sufficient pleadings regarding bias or victimisation by the Officers of Party II Company. The burden is on the Party I/workmen to prove victimisation.

36. There is nothing on record that besides the Party I/workpersons, the other workmen have also taken active part in the incident. There is nothing on record that they were also responsible for the said act. The case of **Mohd. Yunus Khan**, supra is not applicable in the present case as the Party II have established gross misconducts against the workmen. The Tribunal would not have to consider

only whether there was a prima facie case but would decide for itself on the evidence adduced whether the charges have been really made out. In any event, the Party I workmen have not established any bias or victimisation on the part of Party II. Even otherwise, once gross misconducts are established before the Tribunal on merits, the plea of bias or victimisation fails. The Party I/ /workpersons therefore failed to prove that the termination of Party/workpersons is illegal, unjustified and by way of victimisation. Hence, Issue No. 3 is answered in the negative.

Issue No. 4:

37. Learned Advocate Shri S. P. Gaonkar has submitted that the Hon'ble Tribunal would be fully justified under Section 11-A of the Industrial Disputes Act, 1947 in declaring the dismissal of all workmen/Party I in the order of reference as illegal, improper, unjustified and violative of principles of natural justice as the Orders of dismissal were ab-initio void and inoperative and hence the Workmen/Party I continued to be in service with all consequential benefits.

38. The next question would be whether the Tribunal has the jurisdiction to interfere with the punishment of termination of services imposed on the Party I/workmen and under what circumstances such interference is justified. It is well settled in the case of **Davalsab Hussainsab Mulla v/s North West Karnataka Road Transport Corporation (2013) 10 SCC 185** that under Section 11-A of the Industrial Disputes Act, discretionary power to set aside punishment of discharge or dismissal to be exercised judicially and judiciously with care and caution and that such satisfaction must be based on sound reasoning and cannot be arrived at in a casual manner for flimsy reasons and the Labour court has to assess gravity and magnitude of misconduct found proved against the employee concerned, his past conduct, repercussions it would have in the event of interference with the order of discharge or dismissal in day-to-day functioning of the establishment which would have far-reaching effects on other workmen, etc. and that misplaced sympathy would cause more harm to the establishment than any good for the employee concerned.

39. In the instant case, the Party I/workpersons were involved in two separate incidents, the first of threatening a temporary worker not to come to work and directly committing an act subversive of discipline. The second incident which is as serious,

whereby they have indulged in acts of criminal restraint, intimidation, insult and threatened the life of staff. All these incidents comprise offences under the Indian Penal Code for which action was sought from the Police. It is well established that unless there are compelling circumstances or the Tribunal is of the opinion that the punishment meted out is far disproportionate to the acts of misconduct, such that it shocks the conscience of the Tribunal, it should not interfere with the punishment imposed upon the workmen.

40. The Party II has fully justified the charges levelled against the workers by cogent evidence on all the incidents. There is total loss of confidence in the said three workpersons who have committed acts of gross misconducts and criminal offence which do not deserve any sympathy. There are also no mitigating circumstances to award any lesser punishment on the workers than termination of their services. The conduct of the Party I/ /workpersons towards the establishment as well as its fellow employees and higher authorities was highly condemnable and therefore there is absolutely no scope for exercising the discretionary powers vested in the Tribunal under Section 11-A of the Act. The workmen have not led any evidence on the state of employment or what attempts were made by them to secure a job since their termination. Hence, the above issue is answered accordingly.

41. In the result, I pass the following:

ORDER

1. It is hereby held that the action of the management of M/s. Cartini India Limited (now, M/s. Godrej and Boyce Manufacturing Company Limited), Tivim Industrial Estate, Karaswada, Mapusa, Goa in dismissing its workpersons, Mrs. Radhika Sawant, Ms. Nutan Vaigankar and Mrs. Mahananda Halankar with effect from 8-2-2010 is legal and justified.
2. Consequently, the Party I/workpersons are not entitled for any reliefs.
3. Inform the Government accordingly.

Sd/-
(Vincent D'Silva)
Presiding Officer,
Industrial Tribunal and
Labour Court.

Department of Law & Judiciary

Law (establishment) Division

Order

No. 1/7/2014-LD(Estt.)/1505

Government of Goa is pleased to appoint the following advocates as Additional Government Advocates to appear and defend the interest of the State Government in the matters before the Hon'ble High Court of Bombay at Goa, Panaji with immediate effect and until further Orders.

Sr. No.	Name of the Advocate	Designation
1.	Adv. Nehal Vernekar	Additional Government Advocate.
2.	Adv. Subham Priolkar	Additional Government Advocate.

The above advocates will be attached to the Office of the Ld. Advocate General, Altinho, Panaji-Goa.

They shall be paid fees as per the existing terms and conditions laid down by the Government vide Order No. 1/19/2015/LD(Estt.)/150 dated 18-01-2016 and subsequent Corrigendum No. 1/19/2015/LD(Estt.)/1887 dated 25-10-2016, as applicable to Government Advocates/Additional Government Advocates and as amended from time to time, on submission of bills (in duplicate) alongwith the attendance certificate, issued by the Registrar of the High Court of Bombay, Panaji-Goa. They shall comply with the instructions contained in the Government Circular No. 4-43-99/LD dated 04-05-2000. They will appear in those matters, which would be allotted to them by the Ld. Advocate General.

By order and in the name of the Governor of Goa.

Amir Y. Parab, Under Secretary (Law-Estt.).

Porvorim, 09th July, 2021.

Department of Panchayats

Directorate of Panchayats

Notification

No. 26/25/DP/DPC/06/2021-22/4320

In exercise of the powers conferred by Section 239 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), and in supersession of the Government

Notification No. 26/25/DP/DPC/S/2012-13 dated 11-03-2016 published in the Official Gazette, Series II No. 52 dated 26-03-2016, the Government of Goa is pleased to re-constitute the District Planning Committee for the North Goa District, consisting of the following members and permanent invitees, namely:-

North District Planning Committee:

1. Adhyaksha of North Goa Zilla Panchayat — Ex-Officio Chairperson.
2. Member of Parliament, North Goa — Member.
3. Mayor of the Corporation of the City of Panaji — Member.
4. Shri Shankar Anant Chodankar, Member of North Goa Zilla Panchayat — Member.
5. Smt. Diksha Dilip Kanolkar, Member of North Goa Zilla Panchayat — Member.
6. Shri Gopal Mahadev Surlakar, Member of North Goa Zilla Panchayat — Member.
7. Shri Guirish Pundolica Uscoicar, Member of North Goa Zilla Panchayat — Member.
8. Shri Rupesh Damodar Naik, Member of North Goa Zilla Panchayat — Member.
9. Shri Dattaprasad Murari Dabolkar, Member of North Goa Zilla Panchayat — Member.
10. Smt. Sanisha Satish Toraskar, Member of North Goa Zilla Panchayat — Member.
11. Shri Siddesh Shripad Naik, Member of North Goa Zilla Panchayat — Member.
12. Chairperson of Pernem Municipal Council — Member.
13. Chairperson of Mapusa Municipal Council — Member.
14. Chairperson of Bicholim Municipal Council — Member.
15. Chairperson of Sankhali Municipal Council — Member.
16. Chairperson of Valpoi Municipal Council — Member.

17. All Members of the Legislative — Permanent
Assembly of Goa whose Invitees.
constituencies lie within
the North Goa District

The Chief Executive Officer of the North Goa Zilla Panchayat shall be the Secretary of the District Planning Committee for the North Goa District.

Duties and Responsibilities

1. Every Panchayat, Zilla Panchayat and Municipal Councils falling within the area of North Goa District, shall, at the beginning of every Five Year Plan period, prepare a Five Year Plan and by the end of January of every year, prepare an Annual Plan and submit it to the said District Planning Committee for the North Goa District.

2. The said District Planning Committee shall consolidate the plans prepared by the Zilla Panchayat, Panchayats and Municipal Councils in the District and prepare a draft development plan for the District as a whole.

The District Planning Committee for the North Goa District shall, in preparing the draft development plan –

a) Have regard to,

I. The matters of common interest between the Zilla Panchayat, Panchayats and Municipal Councils in the district including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservation;

II. The extent and type of available resources, whether financial or otherwise;

b) Consult such institutions and organizations as the Government may, by order, specify.

The Chairman of the District Planning Committee for the North Goa District shall forward the development plan, as recommended by the said Committee, to the Government of Goa.

The expenditure of the meetings of the District Planning Committee for the North Goa District shall be met from the funds provided to the North Goa Zilla Panchayat by the Government towards recurring and non-recurring expenditure for administration.

By order and in the name of the Governor of Goa.

Siddhi Halarnkar, Director & ex officio Joint Secretary (PR).

Panaji, 14th July, 2021.

Notification

No. 26/25/DP/DPC/06/2021-22/4320

In exercise of the powers conferred by Section 239 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), and in supersession of the Government Notification No. 26/25/DP/DPC/S/2012-13 dated 11-03-2016 published in the Official Gazette, Series II No. 52 dated 26-03-2016, the Government of Goa is pleased to re-constitute the District Planning Committee for the South Goa District, consisting of the following members and permanent invitees, namely:-

South District Planning Committee:

- | | |
|--|---------------------------|
| 1. Adhyaksha of South Goa Zilla Panchayat | — Ex-Officio Chairperson. |
| 2. Member of Parliament, South Goa | — Member. |
| 3. Member of Parliament (Rajya Sabha) | — Member. |
| 4. Chairperson of Margao Municipal Council | — Member. |
| 5. Shri Khushali J. Velip, Member of South Goa Zilla Panchayat | — Member. |
| 6. Shri Shramesh Sukdu Bhosle, Member of South Goa Zilla Panchayat | — Member. |
| 7. Shri Domnic Minguel Gaonkar, Member of South Goa Zilla Panchayat | — Member. |
| 8. Shri Ulhas Yeshwant Tuenkar, Member of South Goa Zilla Panchayat | — Member. |
| 9. Smt. Sudha Govind Gaonkar, Member of South Goa Zilla Panchayat | — Member. |
| 10. Smt. Anita Ajay Thorat, Member of South Goa Zilla Panchayat | — Member. |
| 11. Shri Dipak Tiru Naik Borkar, Member of South Goa Zilla Panchayat | — Member. |
| 12. Smt. Shobhana Shambu Velip, Member of South Goa Zilla Panchayat | — Member. |
| 13. Chairperson of Sanguem Municipal Council | — Member. |
| 14. Chairperson of Quepem Municipal Council | — Member. |

15. Chairperson of Curchorem-
-Cacora Municipal Council — Member.
16. Chairperson of Cuncolim
Municipal Council — Member.
17. Chairperson of Mormugao
Municipal Council — Member.
18. Chairperson of Canacona
Municipal Council — Member.
19. Chairperson of Ponda
Municipal Council — Member.
20. All Members of the Legislative — Permanent
Assembly of Goa whose Invitees.
constituencies lie within the
South Goa District.

The Chief Executive Officer of the South Goa Zilla Panchayat shall be the Secretary of the District Planning Committee for the South Goa District.

Duties and Responsibilities

1. Every Panchayat, Zilla Panchayat and Municipal Councils falling within the area of South Goa District, shall, at the beginning of every Five Year Plan period, prepare a Five Year Plan and by the end of January of every year, prepare an Annual Plan and submit it to the said District Planning Committee for the South Goa District.

2. The said District Planning Committee shall consolidate the plans prepared by the Zilla Panchayat, Panchayats and Municipal Councils in the District and prepare a draft development plan for the District as a whole.

The District Planning Committee for the South Goa District shall, in preparing the draft development plan –

a) Have regard to,

- I. the matters of common interest between the Zilla Panchayat, Panchayats and Municipal Councils in the district including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservation;
- II. the extent and type of available resources, whether financial or otherwise;

b) Consult such institutions and organizations as the Government may, by order, specify.

The Chairman of the District Planning Committee for the South Goa District shall forward the development plan, as recommended by the said Committee, to the Government of Goa.

The expenditure of the meetings of the District Planning Committee for the South Goa District shall be met from the funds provided to the South Goa Zilla Panchayat by the Government towards recurring and non-recurring expenditure for administration.

By order and in the name of the Governor of Goa.

Siddhi Halarnkar, Director & ex officio Joint Secretary (PR).

Panaji, 14th July, 2021.



Department of Personnel

— Order

No. 7/11/2020-PER/1691

In pursuance of Order No. 14016/10/2021, UTS-I dated 30-06-2021 issued by Government of India, Ministry of Home Affairs, New Delhi, the Governor of Goa is pleased to appoint Ms. Sneha Gitte, IAS (AGMUT:2019), as Deputy Collector & SDO-II Bardez, with immediate effect.

Smt. Veera Nayak, Deputy Collector & SDO-II Bardez is transferred and posted as Deputy Collector (Election) North.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 12th July, 2021.

— Order

No. 7/21/2017-PER/1721

The Governor of Goa is pleased to appoint Shri Arun Kumar Mishra, IAS (AGMUT:2012), as Secretary to Governor, with immediate effect, relieving Shri R. Mihir Vardhan, IAS (Retd.), appointed on co-terminus basis vide order No. 7/18/2020-PER/83 dated 08-01-2021.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).
Porvorim, 14th July, 2021.

Order

No. 5/16/2021-PER/1669

Read: Memorandum No. 5/16/2021-PER dated 25-03-2021.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/42(4)/2019/964 dated 22-02-2021, the Governor of Goa is pleased to appoint the following candidates as Junior Scale Officers of Goa Civil Service (Group "A" Gazetted) in Level 10 of the Pay Matrix with immediate effect:-

- 1) Shri Shubham Mohan Naik.
- 2) Shri Ganesh Krishnakumar Barve.
- 3) Shri Yogiraj Prakash Gosavi.
- 4) Smt. Ashwini Abhay Gauns Desai.
- 5) Shri Girish Gopal Sawant.
- 6) Shri Sitaram Gurudas Sawal (OBC).
- 7) Shri Manohar Lavu Karekar (OBC).

2. The above candidates have been declared medically fit by the Medical Board. Their character and antecedents have been verified.

3. The above candidates shall be on probation for a period of two years with effect from their date of joining, during which they shall undergo a departmental training and shall have to pass the Departmental Examination prescribed under the rules.

4. The pay and allowances of the above candidates shall be debited to the Budget Head controlled by the concerned Department wherever they are posted from time to time, or as per specific orders issued by Personnel Department.

5. The above candidates shall join their duties in the Personnel Department. within a period of fifteen days from the date of receipt of this order.

6. The appointment of the candidate at Serial No. 6 shall be subject to the verification of the genuineness of his educational qualification certificate.

By order and in the name of the Governor of Goa.

Meghana Shetgaonkar, Joint Secretary (Personnel).

Porvorim, 08th July, 2021.

Corrigendum

No. 5/40/84-PER-Vol.I/1743

Read: Order No. 5/40/84-PER(Vol.I) dated 22-06-2009

In para 2 of the Order read in the preamble, the words "two years" shall be substituted to read as "one year".

By order and in the name of the Governor of Goa.

Maya Pednekar, Under Secretary (Personnel-II).

Porvorim, 12th July, 2021.

Addendum

No. 6/13/2017-PER/1677

Read: Order No. 6/13/2017-PER/1513 dated 22-06-2021.

The following line shall be added after para 3 of the order referred to in the preamble:

'The officers appointed on ex-cadre deputation posts shall be governed by the standard terms of deputation, as amended from time to time'.

By order and in the name of the Governor of Goa.

Vishal C. Kundaikar, Under Secretary (Personnel-I).

Porvorim, 09th July, 2021.

**Department of Public Health****Certificate**

No. 45/1/2005-I/PHD/PART/1574

Read: Government Order No. 45/1/2005-I/PHD/Part/1449 dated 29-06-2021.

Certified that the character and antecedents of Dr. Rina Cordeiro, Junior Anaesthetist (Group 'A' Gazetted) under Directorate of Health Services mentioned in the above referred Order has been verified by the District Magistrate, North Goa, Panaji vide letter No. 2/11/2016-MAG/VCA/Vol-II/1253 dated 04-06-2021 and it is revealed that there is nothing adverse reported against her.

Gautami Parmekar, Under Secretary (Health-II).

Porvorim, 09th July, 2021.

Certificate

No. 4/23/2002-II/PHD/PART 1/1311

Read: Government Order No. 4/23/2002-II/PHD/Part-1/1215 dated 10-06-2021.

Certified that the character and antecedents of Dr. Pandurang alias Prathamesh A. Naik, Lecturer, Department of Medicine in Goa Medical College and Hospital, Bambolim mentioned in the above referred Order have been verified by the District Magistrate, North Goa District, Panaji and nothing adverse has come to the notice of the Government.

Trupti B. Manerkar, Under Secretary (Health).

Porvorim, 09th July, 2021.

Certificate

No. 45/1/2005-I/PHD/Part/1575

Read: Government Order No. 45/1/2005-I/PHD/Part/1449 dated 29-06-2021.

Certified that the character and antecedents of Dr. Deepika Jaikrishna Chari, Junior Anaesthetist (Group 'A' Gazetted) under Directorate of Health Services mentioned in the above referred Order has been verified by the District Magistrate, South Goa, Margao vide letter No. 36/05/2019/MAG/

/243/7192 dated 02-07-2021 and it is revealed that there is nothing adverse reported against her.

Gautami Parmekar, Under Secretary (Health-II).

Porvorim, 09th July, 2021.

Department of Transport

Directorate of Transport

Order

No. 5/2/93-Tpt/P.F./2021/1668

The Order No. 5/2/93-Tpt/P.F./2021/1646 dated 30-06-2021 regarding transfer of Shri Sandeep B. Dessai, Shri Meghashyam Pilankar and Shri Rajesh G. Naik, Assistant Director of Transport (Group 'B' Gazetted) shall be kept in abeyance.

By order and in the name of the Governor of Goa.

Rajan Satardekar, Director & ex officio Addl. Secretary (Tpt.).

Panaji, 2nd July, 2021.

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